

DCAA MEMORANDUM FOR REGIONAL DIRECTORS COVER SHEET			
AUDIT GUIDANCE/AUDIT MANAGEMENT GUIDANCE MEMORANDUM NO.		05-PAC-009(R)	
January 18, 2005			
Date of MRD:	Audit Guidance on DCMA Information Memorandum on Over-Ceiling Executive Compensation Costs		
Subject of MRD:			
Current Audit Guidance and/or Audit Management Guidance Affected:			
CAM			
Paragraph	Explanation of Effect on Current Version of CAM		
None			
AUDIT PROGRAMS			
5 Digit Activity Code	Subactivity/Document Name	Step No.	Explanation of Effect on Current Audit Program
None			
SHELL AUDIT REPORTS			
5 Digit Activity Code	Subactivity/Document Name	Sec./Par.	Explanation of Effect on Current Audit Report
None			
MEMORANDUMS FOR REGIONAL DIRECTORS			
MRD No.	Date	Subject/Explanation of Change	
None			
INTERNAL CONTROL QUESTIONNAIRE/INTERNAL CONTROL MATRIX/INTERNAL CONTROL AUDIT PLANNING SUMMARY			
ICQ/ICM/ICAPS	Section & No.	State Control(s) Affected by the Change	
None			
DCAA PAMPHLETS/REGULATIONS/INSTRUCTIONS			
DCAAP/R/I/No.	Date	Page/Sec./Par.	Explanation of Effect
None			
DMIS USER GUIDE			
Explanation of Effect			
None			



DEFENSE CONTRACT AUDIT AGENCY
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IN REPLY REFER TO

PAC 730.3.B.01/2005-03

January 18, 2005
05-PAC-009(R)

MEMORANDUM FOR REGIONAL DIRECTORS, DCAA
DIRECTOR, FIELD DETACHMENT, DCAA

SUBJECT: Audit Guidance on DCMA Information Memorandum on Over-Ceiling Executive Compensation Costs

On December 21, 2004, DCMA posted the subject Information Memorandum on its website at: <http://guidebook.dcmamil/9/dc05-033.htm>. The Information Memorandum notes that the National Defense Authorization Act of FY 1998, implemented at FAR 31.205-6(p), prohibits reimbursement of contractors' executive compensation costs in excess of certain "benchmarks" and that the prohibition applies to costs incurred after January 1, 1998 under contracts already in existence, as well as new contracts. It also notes that the Court of Federal Claims did not invalidate the statute, but ruled that application of the statute to contracts issued before the effective date of the statute created a breach of contract. Some contractors have already submitted claims for payment of over-ceiling costs previously removed from allowable costs. The Information Memorandum advises contracting personnel that:

- ✓ They should not pay any costs excluded by FAR 31.205-6(p), whether as a routine reimbursement, negotiated settlement, or as a result of a formal claim.
- ✓ Any such claims or demands should be coordinated promptly with counsel.

Auditors should ensure that executive compensation costs in excess of the FAR 31.205-6(p) limitation are not included in overhead submissions or interim billings. Auditors who are asked to audit a breach of contract claim should determine the amount that would otherwise be allowable absent the FAR 31.205-6(p) executive compensation cap. To determine the amount of over-ceiling compensation costs, the auditor should apply the cost principles incorporated in the subject contract, i.e., normally the cost principles in effect at the time of the contract award. The audit report should include an audit opinion regarding whether the claimed executive compensation cost is otherwise reasonable and allowable had there not been the requirement for applying the FAR 31.205-6(p) executive compensation cap.

Field audit office personnel should direct questions regarding this memorandum to their regional offices. Regional offices should direct their questions to Ms. Rose M. Autmon, Program Manager, Accounting and Cost Principles Division, at (703) 767-3250 or rose.autmon@dcaamil.

/Signed/
Robert DiMucci
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